



Town of Dumfries  
Council Meeting

Meeting Date:

July 9, 2013

Agenda Item#

XV - A

AGENDA ITEM FORM

**TYPE OF AGENDA ITEM:**

- ☐ CONSENT AGENDA  
☐ PRESENTATION  
    ACTION ITEM  
☐ TOWN MANAGER & STAFF COMMENTS  
☐ PUBLIC HEARING  
    ☐ Duly Advertised

**PURPOSE OF ITEM:**

- ☐ INFORMATION ONLY  
☐ DISCUSSION ONLY  
☐ DISCUSSION AND DECISION  
    ☐ Introduction   ☐ Resolution  
    ☒ Ordinance      ☐ Grant/MOU  
    ☐ By Motion      ☐ Bylaws  
    ☐ Certificate

**PRESENTER:** Christine Sanders

**PRESENTER TITLE:** Town Attorney

**AGENDA ITEM:** Temporary Roadside Food Vendor Ordinance

**BACKGROUND / SUMMARY:**

Proposed Ordinance with amendments as discussed by Council at prior meetings (4/16/13, 5/7/13, and 6/4/13).

**ATTACHMENTS:**

Ordinance  
Events Committee Email about Concerns

**REQUESTED ACTION:**

Adopt the ordinance, as amended

**FOR MORE INFORMATION, CONTACT:**

Christine Sanders, Town Attorney

703-221-3400 ext. 140

[csanders@dumfriesva.gov](mailto:csanders@dumfriesva.gov)

**FOR USE DURING MEETING**

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Brewer
<input type="checkbox"/>	<input type="checkbox"/>	Reynolds
<input type="checkbox"/>	<input type="checkbox"/>	Wood

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Foreman
<input type="checkbox"/>	<input type="checkbox"/>	Toney

**VOTE:**

☐ PASSED

☐ NOT PASSED

Y	N	
<input type="checkbox"/>	<input type="checkbox"/>	Forrester
<input type="checkbox"/>	<input type="checkbox"/>	Washington

**AT A REGULAR MEETING OF THE DUMFRIES TOWN COUNCIL HELD ON TUESDAY, JULY 9, 2013, IN COUNCIL CHAMBERS, 17755 MAIN STREET, DUMFRIES, VIRGINIA: ON A MOTION DULY MADE BY \_\_\_\_\_, AND SECONDED BY \_\_\_\_\_, THE FOLLOWING ORDINANCE WAS ADOPTED BY THE FOLLOWING VOTE:**

Charles C. Brewer, \_\_\_\_;  
Gerald M. Foreman, II, \_\_\_\_;  
Kristin W. Forrester, \_\_\_\_;  
Helen D. Reynolds, \_\_\_\_;  
Willie J. Toney, \_\_\_\_;  
Gwen P. Washington, \_\_\_\_;  
Derrick R. Wood, \_\_\_\_;

**AMEND THE CODE OF THE TOWN OF DUMFRIES, VIRGINIA, AS AMENDED, BY AMENDING CHAPTER 42, BY AMENDING THE NAME OF THE CHAPTER TO PEDDLERS, SOLICITERS AND ROADSIDE FOOD VENDORS; AND ADDING ARTICLE III, TEMPORARY ROADSIDE FOOD VENDORS.**

BE IT ORDAINED by the Council of the Town of Dumfries, Virginia, in a regular meeting this 9<sup>th</sup> day of July, 2013:

1. That the Code of Ordinances, Town of Dumfries, Virginia, as amended, is further amended by deleting the title to Chapter 42 and amending/adding to the title of Chapter 42 and is reenacted as follows:

**~~Chapter 42 – PEDDLERS AND SOLICITORS~~**

**Chapter 42 PEDDLERS, SOLICITORS and TEMPORARY ROADSIDE FOOD VENDORS.**

2. That the Code of Ordinances, Town of Dumfries, Virginia as amended is further amended by adding:

**Article III. Temporary Roadside Food Vendors**

**Sec. 42-30. Purpose of Article; findings of Town council.**

The purpose of this Article is to reasonably control the activities of temporary roadside and mobile food vendors for the health, safety and well-being of the people residing in the Town and the general public. The Town council finds that solicitation of business by roadside food vendors may on private property interfere with property owners and residents' right to privacy, peaceable enjoyment of their property and quiet. The Town council also is committed to leaving open ample opportunities for legitimate roadside food vendors, and prohibits any unlawful discrimination in the in the application of this chapter.

**Sec. 42-31. Sunset Provision.**

This Article shall repeal automatically June 30, 2018.

**Sec. 42-32. Definitions.**

For the purpose of this chapter the following alphabetical listing of terms and their definitions shall apply. Additional definitions specific to their application in a section may be found elsewhere in the Code of Ordinances for the Town of Dumfries.

- (1) Roadside food vendor-- shall include a vendor who sells food from a lunch wagon, truck, push cart, or vehicle from which food is sold on private property with legal access to a public right of way.
- (2) Temporary – for the purpose of this Chapter, temporary shall mean no more than 12 hours a day, six days a week. Overnight parking of the food vending unit(s), and employee parking is prohibited. Signs, trash, trash receptacles, debris or any other indicia of the vending business are prohibited to remain overnight and shall be removed from the permitted site(s) each day.

**Sec. 42-33. Mobile food vendors** operating as a temporary use shall be regulated pursuant to Chapter 70, Section 70-22 and 70-23.

**Sec. 42- 34. Temporary Roadside Vendor regulations.**

Temporary roadside food vendors not operating pursuant to Chapter 70, Sections 70-22 – 70-23 may be approved in any district zoned B1, B2, FBO1 or M1 by the zoning administrator through the issuance of a permit when in the interest of protecting the public health, safety and welfare the following conditions are met:

- (1) Written approval of the owner of the property shall be obtained in advance of obtaining any permits under this Article. This approval shall identify the property address, the property owner's: a) name; b) owner's mailing address; c) owner's telephone number; d) owner's acknowledgment of the proposed vending activity; and e) dates and times the food vending is to occur. A copy of this written approval must be in the possession of the vendor when operating pursuant to his/her roadside food vendor permit.
- (2) No restrooms shall be provided for customers or the general public.
- (3) Roadside vendors are limited to no more than five employees.
- (4) No structures of any kind shall be allowed.

- (5) Allowable hours of operation for food vending shall be dawn to dusk.
- (6) Roadside vendors are not permitted on publicly-owned property or public right-of-ways.
- (7) Adequate and safe ingress and egress, such that the normal traffic pattern shall not be disrupted, shall be provided as determined by the chief of police or his designee.
- (8) Adequate parking for the vendor, employees and customers on site is required. A minimum of four parking spaces shall be provided for customers on-site. Parking or stopping in public rights-of-way is prohibited.
- (9) A schematic site plan diagramming the area of operation, parking, placement of signs, and trash receptacles shall be furnished to and approved by the zoning administrator prior to issuance of a permit.
- (11) Signage shall not exceed 20 square feet in total area. Free standing signs are limited to sandwich board type signs no higher than four (4) feet in height.
- (12) A bond, cash escrow, or other suitable guarantee payable to the Town in the amount of \$1500.00 shall be provided to insure that conditions of the permit and this ordinance will be met. Such guarantee in the amount of \$1500.00 for each permitted vending location shall be required. Repeated violations of the conditions of the permit shall result in the forfeiture of the bond, payable to the Town as stated in subparagraph (16) below.
- (13) Evidence of business liability insurance issued by a company licensed to do business in the Commonwealth of Virginia with coverage for claims of damage to property and bodily injury, including death, which may arise from the vending operations with a combined single limit of liability of not less than one hundred thousand dollars (\$1,000,000.00) per occurrence shall be furnished to the zoning administrator prior to issuance of a permit. Said policy must include an endorsement naming the Town as an additional insured and provide the Town with at least thirty (30) days' prior written notice before any cancellation or termination.
- (14) No seating for customers shall be provided. Only carry-out food will be permitted.
- (15) Removal of all freestanding signs, trash, or debris from the site and the immediate vicinity, upon termination of the activity shall be guaranteed by the vendor in

writing and accomplished daily. Should trash, debris or signs remain overnight, the applicant will be subject to a verbal and a written warning (as confirmation of the verbal warning). Any subsequent violation shall result in revocation of the permit, meaning that the permit is void. The Applicant will be subject to enforcement of this Article pursuant to the terms of this Article and any other applicable Town codes.

- (16) The bond or other guarantee, required by subsection (12) of this section, shall be forfeited to the Town if the site is not adequately cleared of all trash, debris, and signs daily, the activity continues or remains on the site after expiration of the permit, or violations of this section or the conditions of the permit are established (but nothing in this forfeiture provision shall limit the Town's ability to enforce this section in any manner provided by law). All other applicable laws will be enforced.
- (17) No more than two such permits shall be issued for the same property lot or GPIN at any time. It is expressly understood that every location may not be suitable for one or two roadside food vendors.
- (18) No permit shall be issued unless the vendor has received and furnished evidence of a valid permit or certification from the Virginia Department of Health to prepare (if preparation or cooking is involved) and/or sell food.
- (19) Temporary Roadside food vendors shall: (a) obtain an annual business license and pay BPOL taxes based on gross receipts, (b) pay a permit fee of \$250.00 and; (c) be required to pay Meals Tax pursuant to Article V of Section 58 of the Dumfries Town Code as amended from time to time.
- (20) Temporary roadside food vendors whose permit has been revoked shall be ineligible to apply for and obtain another permit for a period of 12 months after the revocation.

#### **Sec. 42-35. Enforcement.**

In addition to forfeiting the bond referenced in Sections 42.34 (12) and (16) above, vendors who violate the conditions of their permit or any provisions of this Chapter shall be guilty of a Class IV misdemeanor, punishable by a fine of \$250.00. Each day that a violation of this Article or the conditions of permit conditions shall continue shall constitute a separate offense.

**BY ORDER OF COUNCIL**

\_\_\_\_\_  
Gerald M. Foreman, Mayor

**ATTEST:**

\_\_\_\_\_  
Dawn Hobgood, Town Clerk

**From:** Jerry Foreman [mailto:gmforeman@comcast.net]  
**Sent:** Friday, June 14, 2013 7:55 PM  
**To:** 'Dan Taber'  
**Cc:** 'Christine Sanders'; 'Council Lady Forrester'; 'Council Lady Reynolds'; 'Councilman Brewer'; 'Derrick Wood'; 'Gwen Washington'; 'Vice Mayor Toney'; kristin@kristinforrester.com  
**Subject:** RE: Temporary Road Side Food Vendor Ordinance

Dan,

Place this string of e-mails on the agenda when we discuss the Temporary Road Side Food Vendor Ordinance. Additionally clarify "that at or after a recent Events Committee meeting, a discussion was held"; if it was at the Events Committee it should be in the minutes, if it was after, then who is bringing this up for discussion?

*S/F*  
*Jerry*

Gerald "Jerry" Foreman  
Mayor  
Town of Dumfries

<http://gmforeman.com/>  
<http://gmforeman.org/>

"Good hard honest work gets results - we must never lose focus that the people and businesses of the Town of Dumfries should be the center of our planning and success. The more we invest in the improvement of our relations and services, the more we'll achieve as a governmental body and this will give our terms as elected officials a more satisfying conclusion." (Gerald "Jerry" Foreman)

**From:** Kristin W. Forrester [mailto:kristin@kristinforrester.com]  
**Sent:** Thursday, June 13, 2013 6:52 PM  
**To:** Jerry Foreman; Dan Taber  
**Cc:** 'Christine Sanders'; 'Council Lady Forrester'; 'Council Lady Reynolds'; 'Councilman Brewer'; 'Derrick Wood'; 'Gwen Washington'; 'Mayor Foreman'; 'Vice Mayor Toney'  
**Subject:** Re: Temporary Road Side Food Vendor Ordinance

My understanding of Dan's email is that allowing the vendors to set up at town events without a charge would off-set the potential for lost revenue due to the town preventing the business from operating under their paid license during that time period.  
There's no limitation being placed on McDonald's or Pampered Chef that would cause them a loss of revenue during town events.

Kristin W. Forrester, PhD  
757-544-4234

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**From:** "Jerry Foreman" <gmforeman@comcast.net>  
**Date:** Thu, 13 Jun 2013 13:53:23 -0400  
**To:** 'Daniel Taber' <dtaber@dumfriesva.gov>  
**Cc:** 'Christine Sanders' <csanders@dumfriesva.gov>; 'Council Lady Forrester' <honkforrester@dumfriesva.gov>; 'Council Lady



Reyonlds'<[honhreynolds@dumfriesva.gov](mailto:honhreynolds@dumfriesva.gov)>; 'Councilman  
Brewer'<[honcbrewer@dumfriesva.gov](mailto:honcbrewer@dumfriesva.gov)>; 'Derrick Wood'<[hondwood@dumfriesva.gov](mailto:hondwood@dumfriesva.gov)>; 'Gwen  
Washington'<[hongwashington@dumfriesva.gov](mailto:hongwashington@dumfriesva.gov)>; 'Mayor  
Foreman'<[hongforeman@dumfriesva.gov](mailto:hongforeman@dumfriesva.gov)>; 'Vice Mayor Toney'<[honwtoney@dumfriesva.gov](mailto:honwtoney@dumfriesva.gov)>  
**Subject:** RE: Temporary Road Side Food Vendor Ordinance

Dan,

If there is a business in Town (a big business such as McDonald's, Padrino's or a micro-business such as Southern Living, Pampered Chef, etc.) would they have to pay for a booth at any festival or for a Town event? Why would the Temporary Road Side Vendor be any different?

To the point: If any other business has to pay to participate in a Town event, then so should the Temporary Roadside Vender. Their license does not exempt them from paying to participate. Their license only allows them to operate within Town limits.

*S/F  
Jerry*

Gerald "Jerry" Foreman  
Mayor  
Town of Dumfries

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**From:** Daniel Taber [<mailto:dtaber@dumfriesva.gov>]  
**Sent:** Thursday, June 13, 2013 1:25 PM  
**To:** 'Council Lady Forrester'; Council Lady Reyonlds; Councilman Brewer; Derrick Wood; 'Gwen Washington'; Mayor Foreman; Vice Mayor Toney  
**Cc:** 'Christine Sanders'; 'Dorthe Tannehill'; 'Daniel Taber'  
**Subject:** Temporary Road Side Food Vendor Ordinance

Council: I have been advised that at or after a recent Events Committee meeting, a discussion was held concerning the potential impact the ordinance under consideration might have on Town events. I have been asked to share the information with you all so you can consider the two main points prior to the ordinance being finalized and approved.

- (1). Because of the already congested roadway during the Dumfries Christmas Parade, the permit when issued should specify that vendors cannot set up along the parade route during the parade.
- (2). Whenever the Town has festivals and events that have food vendors, the vendors who have a permit would not be allowed to set up on that day with an exception. They would be allowed to set up as part of the event without having to pay the fees that would have otherwise been charged for



participating in the event. That should increase their sales for that time period and help enhance the event.

I assume that one or more of you may want to discuss this at the meeting or make comments now by replying to all.

Thanks

Dan

Dan,